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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,041	12/20/2001	James J. Conroy	CONROY	1821
25889	7590	06/17/2004	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			ARK, DARREN W	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/034,041

Applicant(s)

CONROY, JAMES J.

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 15-17, 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 15, lines 4 and 5, the phrase "a plurality of substantially straight elongated channels having a surface on an exterior surface of said base" renders the claim vague and indefinite since the plurality of channels each has a surface. The plurality of channels do not collectively have a surface.

In regard to claim 15, lines 9 and 10, the term "said at least one substantially straight elongated channel" renders the claim vague and indefinite since "a plurality of substantially straight elongated channels" was previously set forth.

In regard to claim 19, the phrase "6, the term "said spacing elements" renders the claim vague and indefinite since it is unclear whether the term refers back to "a plurality of spacing elements" or "at least two spacing elements" which were previously set forth in claim 19.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 18, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Pfeiffer, Sr. 1,286,763.

Pfeiffer, Sr. discloses a base (15) with a plurality of protrusions (protruding parts of trough shaped base 15, 16, ledges of 17, & 20) and elongated indentations (trough portions of 17 have length) extending between at least two protrusions (see Fig. 5 where trough of 17 is between two ledges of 17); injecting insecticide into the indentations (any suitable insecticide or viscous material) such that the insecticide is disposed on an exterior surface of the base (see Fig. 5); depositing the base on a surface wherein the protrusions include at least two sets of protrusions that extend in a substantially vertical manner (16, 17, 20) and at least two sets of protrusions that extend in a substantially horizontal manner (portions of 15, 16, and 20 each extend outwardly/radially or horizontally).

In regard to claim 19, Pfeiffer, Sr. discloses a base with indentations ((trough portions of 17 have length); a plurality of spacing elements (protruding parts of trough shaped base 15, 16, ledges of 17, & 20) disposed on each side of the indentations (see Fig. 5); an insecticide disposed on at least one of the plurality of indentations (any suitable insecticide or viscous material) wherein the protrusions include at least two sets

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of protrusions that extend in a substantially vertical manner (16, 17, 20) and at least two sets of protrusions that extend in a substantially horizontal manner (portions of 15, 16, and 20 each extend outwardly/radially or horizontally).

5. Claims 18, 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pence 5,390,441.

In regard to claim 18, Pence discloses presenting a base (see Fig. 2) with a plurality of protrusions (14", 15, 16", corners) and a plurality of elongated indentations (19, 19') extending between at least two (14", 16") of the plurality of protrusions; and placing the insecticide (20, 20') in at least one of the indentations (see Fig. 2) so that the insecticide is disposed on an exterior surface of the base and is freely exposed for interaction with insects (insecticide is exposed on an exterior surface of the base [at 19] where the snail can access the insecticide; see Fig. 4); depositing the base on a surface wherein the protrusions include at least two sets of protrusions that extend in a substantially vertical manner (vertical portions of 14", 16" and 15 which is vertical) and at least two sets of protrusions that extend in a substantially horizontal manner (13, horizontally extending parts of 14) and are used to keep the indentations spaced a sufficient distance from an adjacent surface (capable of providing separation from the adjacent surface; see Fig. 4).

In regard to claim 19, Pence discloses base (see Fig. 2) with a plurality of spacing elements (14", 15, 16", corners) and a plurality of indentations (19, 19') with a surface formed from the base and extending along the base between the spacing elements for receiving and presenting insecticide (20, 20'), the at least two elements

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disposed on each side of the plurality of indentations (see Fig. 4); at least two sets of spacing elements that extend in a substantially vertical manner (vertical portions of 14", 16" and 15 which is vertical) and at least two sets of protrusions that extend in a substantially horizontal manner (13, horizontally extending parts of 14) and are used to keep the indentations spaced a sufficient distance from an adjacent surface (capable of providing separation from the adjacent surface; see Fig. 4).

6. Claims 18, 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Alvarez 3,704,539.

In regard to claim 18, Alvarez discloses presenting a base (10, 20 or 110, 120) with a plurality of protrusions (P', 110', 123, outer edges of 110 & 120) and a plurality of elongated indentations (openings between 10, 20 or 110, 120 on left and right sides in Figs. 1 & 3; also indentations defined between P') extending between at least two (110' & one of P') of the plurality of protrusions; and placing the insecticide (P) in at least one of the indentations (see Figs. 1 & 3) so that the insecticide is disposed on an exterior surface of the base and is freely exposed for interaction with insects (interior surface is defined within 22 or 116, 122); depositing the base on a surface wherein the plurality of protrusions include at least two sets of protrusions that extend in a substantially vertical manner (123, P' are capable of engaging a surface which enters between 110 and 120) and at least two sets of protrusions that extend in a substantially horizontal manner (outer edges of 110, 120).

In regard to claim 19, Alvarez discloses base (10, 20 or 110, 120) with a plurality of spacing elements (123, P', 110', outer edges of 110 & 120) and a plurality of

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indentations (between 110 & 120 and defined between each adjacent of 123) with a surface formed from the base and extending along the base between the spacing elements for receiving and presenting insecticide (P); at least two sets of spacing elements that extend in a substantially vertical manner (123, 122) and at least two sets of protrusions that extend in a substantially horizontal manner (outer edges of 110', 110, 120) and are used to keep the indentations spaced a sufficient distance from an adjacent surface (capable of providing separation from the adjacent surface; see Fig. 3).

***Allowable Subject Matter***

7. Claims 15-17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

8. The following is an examiner's statement of reasons for allowance:

In regard to claim 15, the prior art of record does not disclose a process for presenting insecticide comprising presenting a base having a plurality of substantially straight elongated channels each having a surface on an exterior surface of the base and inserting the insecticide into at least one of the substantially straight elongated channels.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA